

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Criminal Action No. 17-cr-20642
HON. BERNARD A. FRIEDMAN

vs.

DEMARIO MARCELLIS
PETERSON,

Defendant.

_____ /

**ORDER GRANTING DEFENDANT’S MOTION TO REOPEN THE
TIME TO FILE AN APPEAL**

Before the Court is defendant Demario Marcellis Peterson’s *pro se* motion to reopen the time to file an appeal from the September 11, 2023 judgment denying his 28 U.S.C. § 2255 motion. (ECF No. 259). The government did not respond in opposition. The motion comes after the United States Court of Appeals for the Sixth Circuit already remanded the case for the limited purpose of determining whether Peterson’s time for filing a notice of appeal should be reopened. (ECF No. 258, PageID.3071).

A motion to reopen must satisfy three elements: (1) the appellant must file the request no later than 14 days after receiving notice of the district court’s decision, (2) the district court must find “that the moving party did not receive notice . . . of

the entry of judgment . . . within 21 days after entry,” and (3) the court must find “that no party would be prejudiced.” Fed. R. App. P. 4(a)(6); *see Winters v. Taskila*, 88 F.4th 665, 671 (6th Cir. 2023).

Since Peterson’s motion establishes the first two elements and it does not appear that the government would suffer any prejudice from reopening the time to appeal (especially since the government did not see fit to oppose the motion), it is hereby,

ORDERED that Peterson’s motion to reopen the time to file an appeal (ECF No. 259) is granted.

IT IS FURTHER ORDERED that the Clerk of the Court shall return the case to the United States Sixth Circuit Court of Appeals for further proceedings.

SO ORDERED.

Dated: March 7, 2024
Detroit, Michigan

s/Bernard A. Friedman

Bernard A. Friedman
Senior United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first-class U.S. mail on March 7, 2024.

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s/Johnetta M. Curry-Williams
Case Manager